

# **FY 2023 JOINT FINANCE COMMITTEE HEARING JUDICIAL BRANCH**

**FEBRUARY 17, 2022**



# FY 2023 Operating Budget

The Judicial Branch is grateful for continued support in the  
FY 2023 Governor's Recommended Budget.



# Justice During COVID-19

## Supreme Court

- 100% of appeals were decided within 90 days of submission.
- In Calendar Year 2021, 40% of arguments were remote and 60% were in person. In Calendar Year 2020, 95% were remote.

# Justice During COVID-19

## The Court of Chancery

Received many accolades for their work during the pandemic. Here are a few examples:

“‘The court’s efforts have been **truly Herculean** and, I think, **very effective** thus far in handling things,’ [David] Tejtzel [of Freidman Oster & Tejtzel PLLC] said. ‘The wheels of justice must keep moving and the [C]ourt [of Chancery] has done a good job in making sure that happens.’” Rose Krebs, *Del. Chancery Is Uniquely Suited For Coronavirus Response*, LAW360 (Mar. 27, 2020) (emphasis added), <https://www.law360.com/articles/1257654/del-chancery-is-uniquely-suited-for-coronavirus-response>.

# Justice During COVID-19

## The Court of Chancery

“‘There is a lot of money going around out there,’ [Peter B.] Andrews [of Andrews & Springer LLC] said. **‘I don’t see Delaware slowing down at all.’** Andrews added that he continues to count his blessings that Delaware’s Chancery Court, where he frequently litigates, **has been able to operate virtually without interruption throughout the pandemic.** ‘All of the Delaware attorneys I speak with, everyone is pretty happy overall,’ Andrews said. ‘We are lucky.’” Rose Krebs, *What Del.’s Legal Leaders Are Thinking About As ’22 Begins*, LAW360 PULSE (Jan. 4, 2022) (emphasis added), <https://www.law360.com/pulse/articles/1449256>.

“Gregory V. Varallo, head of Bernstein Litowitz Berger & Grossmann LLP’s Delaware office, said the transition back to in-person proceedings in the state’s esteemed Chancery Court has gone smoothly. Varallo, an experienced corporate litigator, said **the court didn’t really miss a beat during the pandemic** as it continued to move the docket along with virtual proceedings.” Rose Krebs, *The Biggest Moments For Del.’s Legal Industry In 2021*, LAW360 PULSE (Dec. 9, 2021) (emphasis added), <https://www.law360.com/pulse/articles/1446829>.

# Justice During COVID-19

## Superior Court

- Conducted 2,764 criminal and 395 civil proceedings remotely.
- COVID Backlog: over 3,176 triable criminal cases pending statewide, plus an additional 56 pending Murder 1<sup>st</sup> cases. By comparison, 1,087 criminal cases were pending as of June 30, 2019.



# Justice During COVID-19

## Family Court

- Kept up with criminal and delinquency caseloads.
- Implemented LiveChat in October 2021 with 685 active chats with customers statewide as of the end of January.
- In CY 2021, held over 22,700 Zoom sessions.

# Justice During COVID-19

## Family Court

- Currently scheduling adult criminal case reviews in NCC and Kent County several months further out than pre-Covid.
- Due to staffing levels, some of the Commissioner's civil caseloads have backlogs that delay justice.



# Justice During COVID-19

## Court of Common Pleas

- Despite increasing caseloads, the court has reduced the number of cases waiting to be scheduled by over 65% from the initial backlog.
- As of February 8, 2022, there are 1,806 backlogged cases remaining to be rescheduled in New Castle County.



# Justice During COVID-19

## Justice of the Peace Court

- Maintained a 24-hour location in each county even at the height of COVID spikes and vacancies.
- Scheduled over 11,000 criminal/traffic cases and conducted over 25,000 civil proceedings virtually between January and December 2021.
- Conducting cross-training to help cover essential duties when there are vacancies.

# Justice During COVID-19

## Justice of the Peace Court

- Last month, there were 41 employees absent due to quarantine or positive tests.
- Court Security is at minimal staffing, requiring contractual security to supplement.
- There are nearly 6,300 pending civil cases.



# American Rescue Plan Act (ARPA) Projects

## ➤ COVID-19 Testing

- Testing unvaccinated employees weekly.
- Testing is funded through May 2022.

## ➤ eFiling Case Management and Document Management

- Providing up-front implementation costs for a single unified solution across all courts and case types.
- The pandemic demonstrated the importance of electronic systems to continue services and allow convenient public access.

# American Rescue Plan Act (ARPA) Projects

## ➤ eCourtroom Upgrade Expansion

- Modernizing courtrooms across the state with high-tech solutions and upgrades.
- Benefits include decreasing foot traffic throughout the courthouses, social distancing, and long-term savings by utilizing remote hearing technology.

## ➤ Improved Access to Court Forms and Instructions

- To move toward e-government services, the Courts will convert forms to online fillable/ADA accessible.
- Forms and instruction packets will also be translated into Spanish and Haitian Creole.

# American Rescue Plan Act (ARPA) Projects

## ➤ Backlog Assistance

- Overtime to assist with court collections; and IVR technology for accepting payments and large call volumes.

## ➤ LLWJC Holding Cell Water Closet and Lavatory Replacement

- The plumbing in the holding cells of the LLWJC are in desperate need of upgrades, as sections of cells are no longer in use due to ongoing problems, leading to overcrowding.
- This project is being managed by the Division of Facilities Management.

# Custom House

The redevelopment of the Custom House is currently in the pre-design and design phases.

FY 2022: \$15 million appropriated

FY 2023: \$12 million recommended

FY 2024: \$21 million remaining





# Custom House

- Will eliminate lease costs for the Supreme Court, Arms of the Court, and the Administrative Office of the Courts.
- Will provide additional administrative offices and a resource center for the Community Court program.
- Will be a catalyst for vitality, growth and economic development by improving the aesthetics of that section of North King Street.

# Family Court Facilities

The Judicial Branch appreciates the support for construction of new Family Court facilities in Kent and Sussex Counties.

- FY 2022: \$131.0 million appropriated
- FY 2023: \$80.0 million recommended
- FY 2024: \$26.0 million remaining



# LLWJC Maintenance and Repair

Last year, we reported that the Leonard L. Williams Justice Center, which opened in 2002, needed over **\$27 million in deferred maintenance.**

## ➤ First the Good News

- DFM is purchasing the needed roof anchors.
- ARPA funds are being used for the holding cell plumbing project.
- The GRB Bond Bill continues to fund the elevator repair project.



# LLWJC Maintenance and Repair

➤ But Rome wasn't built in a day...

At least \$21 million in deferred maintenance needed, including:

- Roof replacement
- HVAC improvements
- Weather proofing the exterior of the building
- Air handling units
- Concrete replacement
- Generator replacement
- Electrical system upgrades



# General Fund Budget Overview

**FY 2022 Base Operating Budget:** **\$103,542,700**

GRB Personnel Contingency: \$2,038,400

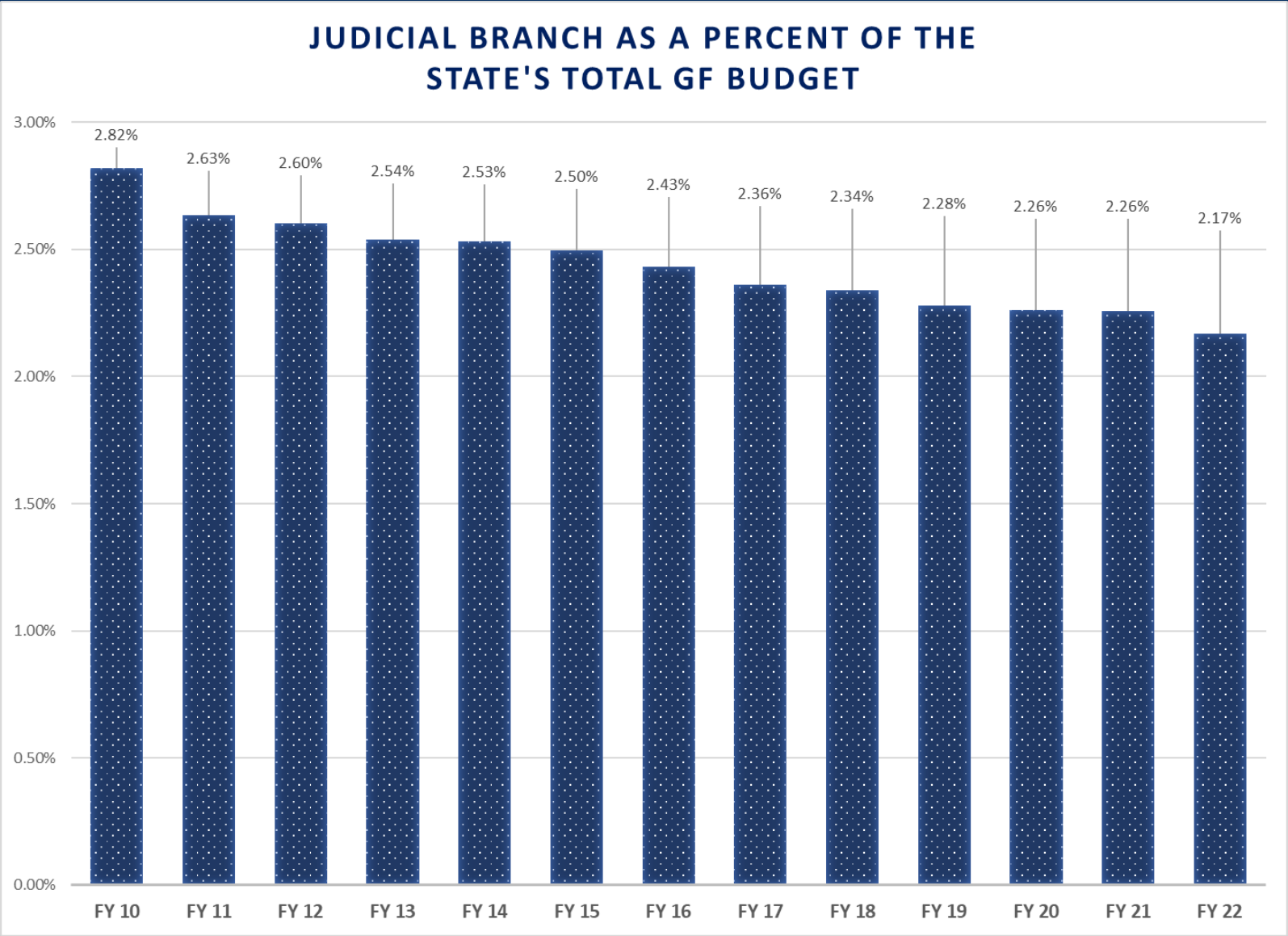
GRB Door Openers: \$324,200

GRB Enhancements: \$239,100

**FY 2023 GRB Operating Budget:** **\$106,144,400**

- 0.54% increase (excluding personnel contingency)
- One-Time Items: \$66,000 for the Board of Canvass

The Judicial Branch’s budget represents 2.17% of the State’s General Fund budget.



# FY 2023 Governor's Recommended Budget

## DOOR OPENERS:

### ➤ \$240,800 – Annualization of FY22 positions

- Commissioner and support staff in the Court of Common Pleas.
- Training Director and MDT Coordination Specialist in the Office of the Child Advocate.

### ➤ \$21,700 – JP Court lease increases

- JP Court occupies four leased locations with annual rent increases ranging from 2-3 percent.

### ➤ \$61,700 – Superior Court lease in Sussex County

- Superior Court entered into a five-year lease as a result of the demolition of the SABO building in Sussex County to build the new Family Court facility.

# FY 2023 Governor's Recommended Budget

## ENHANCEMENTS:

### ➤ \$96,200 -- DEI Officer

- Focus on branch-wide development of policies to address long-standing diversity, equity, and inclusion issues.
- Create a path toward an equitable and inclusive future in the court system from top to bottom.

### ➤ \$142,900 -- 2.0 Law Clerks for the Court of Chancery

- These positions will support the current Masters in Chancery and Constitutional Judges.
- The Masters currently utilize casual/seasonal law clerks, which have been difficult to recruit and retain.

# Remaining Priorities

## Still In Need of Support:

- \$291,600 and \$25,000 one-time for an additional Master in Chancery and support staff
  - The Court of Chancery has an increased number of expedited cases, proceedings, and guardianship cases.
  - The Chancellor, Vice Chancellors, Masters, and Law Clerks work at an unhealthy and unsustainable pace.
  - The excessive workload ultimately poses a threat to the Court of Chancery and its critical role in attracting businesses to Delaware.



# Remaining Priorities

## Still In Need of Support:

- Historically, 25-27% of litigants sought expedition. Since 2020, 38% of new cases have requested expedition, meaning taking them out of order and on an abbreviated timeline for decision.
- Continued increase of requests for judicial proceedings means that each judicial officer is conducting more hearings and making more rulings. Proceedings have gone from 991 in 2018 to 1,289 in 2021.
- Section 220 litigation (stockholder requests for books and records) has been rising, from 73 cases in 2017 to 155 in 2021. These actions account for 25% of expedited cases. Masters in Chancery can hear books and records actions.
- There has been a steady increase in total guardianship cases. The Court experienced a 45% increase in 2021 new cases compared to 2020.

# Remaining Priorities

## Still in Need of Support:

### ➤ \$358,200 and \$16,000 One-Time for 5.0 Law Clerks for Supreme Court

- Currently each Supreme Court Justice has only one Law Clerk, with the Chief Justice having two.
- Comparatively, this is significantly less than the resources provided to federal circuit and district judges, as well as the highest courts in neighboring states.
  - NJ Supreme Court's 7 members are assigned 3 law clerks each.
  - PA Supreme Court's 7 members are assigned 6 law clerks each (4 career-level).
  - Most federal circuit judges with the U.S. Circuit Courts are assigned 3 to 4 law clerks.
- Law Clerks are a cost-effective way to handle increased caseloads without adding Judicial Officers.

# Remaining Priorities

## Still in Need of Support:

### ➤ \$71,400 and \$2,700 One-Time for 1.0 CCLD Law Clerk for Superior Court

- Superior Court's Complex Commercial Litigation Division has four specialty judges that handle complex lawsuits.
- The CCLD does not have a full-time law clerk and retaining casual/seasonal law clerks is difficult due to case complexity and the lack of benefits.
- CCLD cases involve complex commercial disputes and generate significantly more motion practice than non-CCLD cases, requiring more pre-hearing preparation, research, and written decisions by Superior Court judges.

# Remaining Priorities

## Still in Need of Support:

### ➤ 1.0 Community Court Coordinator

- The AOC has approval for an additional year of partial funding for the Community Court Coordinator position and uses existing Contractual Services to cover the remaining costs associated with the contractual position.
- The FTE is requested in FY 2023 in order to establish the position with DHR for the beginning of FY 2024. The process to establish positions can take as long as 6 months including the approvals.
- It is anticipated that grant funding will expire on July 30, 2023. Therefore, 11-months of funding will be needed in FY 2024.

# Remaining Priorities

## Still in Need of Support:

### ➤ \$140,100 for 1.0 JP Court Staff Attorney

- The JP Court currently has only one staff attorney responsible for judicial education; developing and drafting policy directives and legal memoranda, litigation support and advice for labor and employment issues; legislative drafting and review; and judicial support for 60 judges.

### ➤ \$149,900 for 1.0 Deputy and 1.0 MDT Coordinator in the Office of the Child Advocate

- The Office monitors all reported cases of child abuse, sex trafficking, serious physical injury, and death to ensure a multidisciplinary response; this request is in response to the volume of cases.

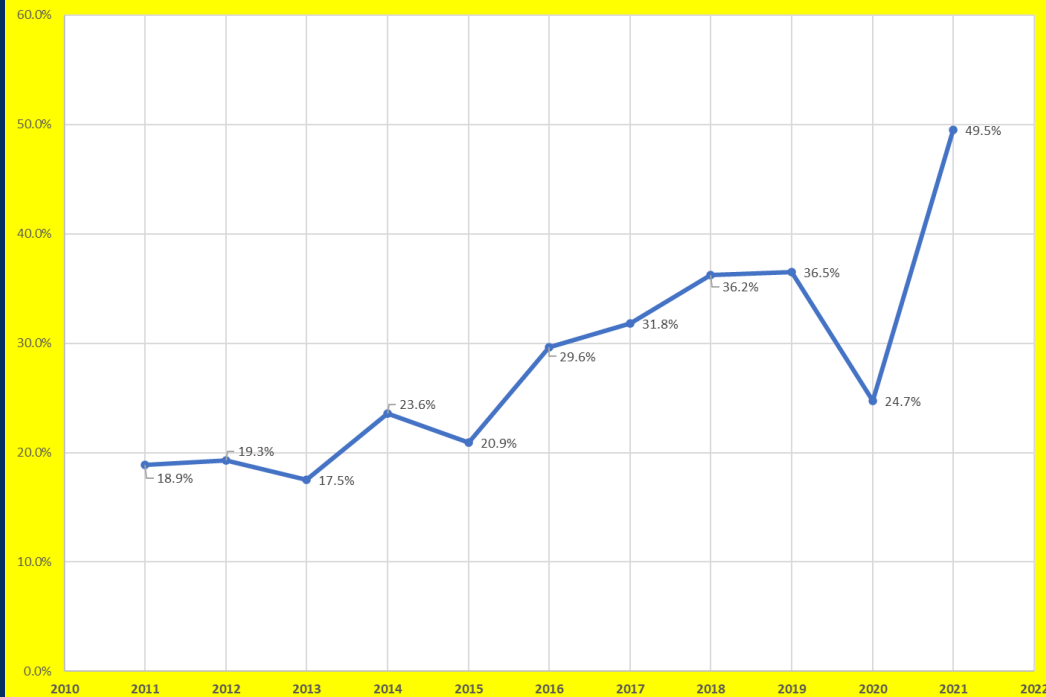
## **The Courts have been experiencing increasing annual turnover.**

### Branch-wide Turnover

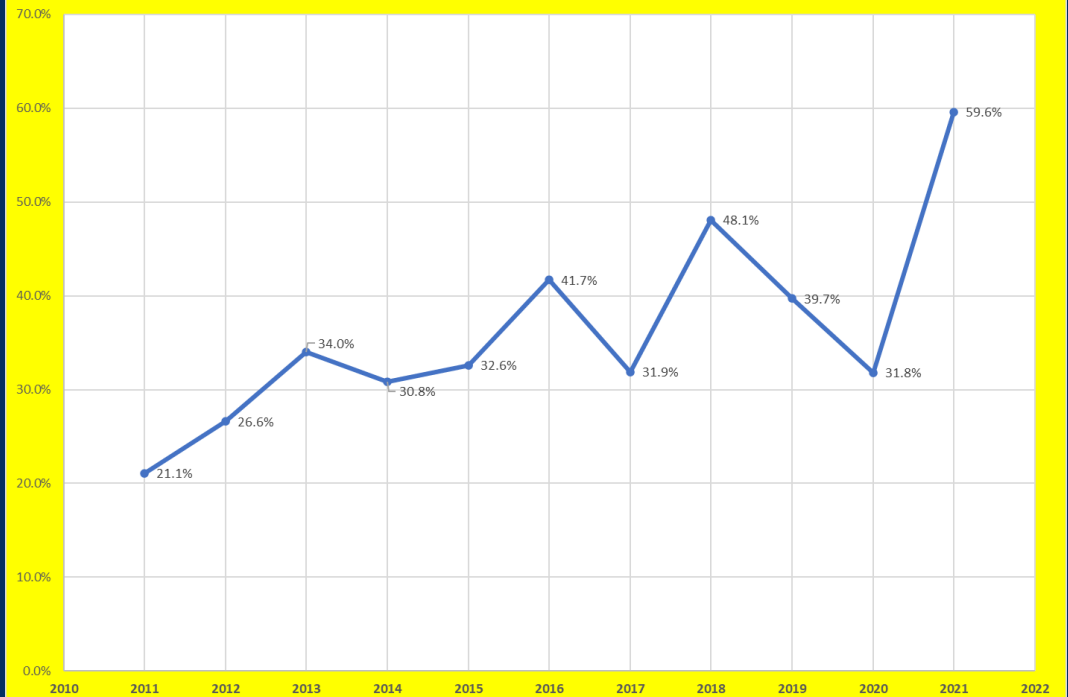
- Overall Turnover was 20.7% in Calendar Year 2011.
- Overall Turnover was 49.13% in Calendar Year 2021.
- Calendar Year 2021 was significantly worse than Calendar Year 2020. Even with COVID in 2020 and 2021, there is an overall higher turnover trend branch-wide.

# The Courts have been experiencing increasing annual turnover.

## SUPERIOR COURT ANNUAL TURNOVER TREND

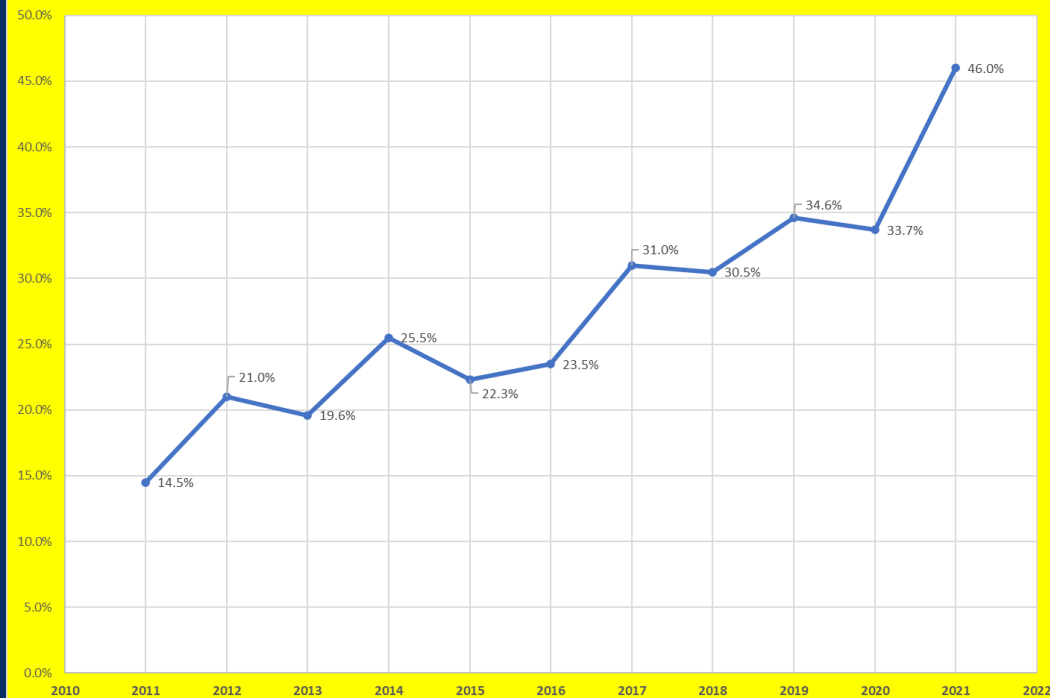


## FAMILY COURT ANNUAL TURNOVER TREND

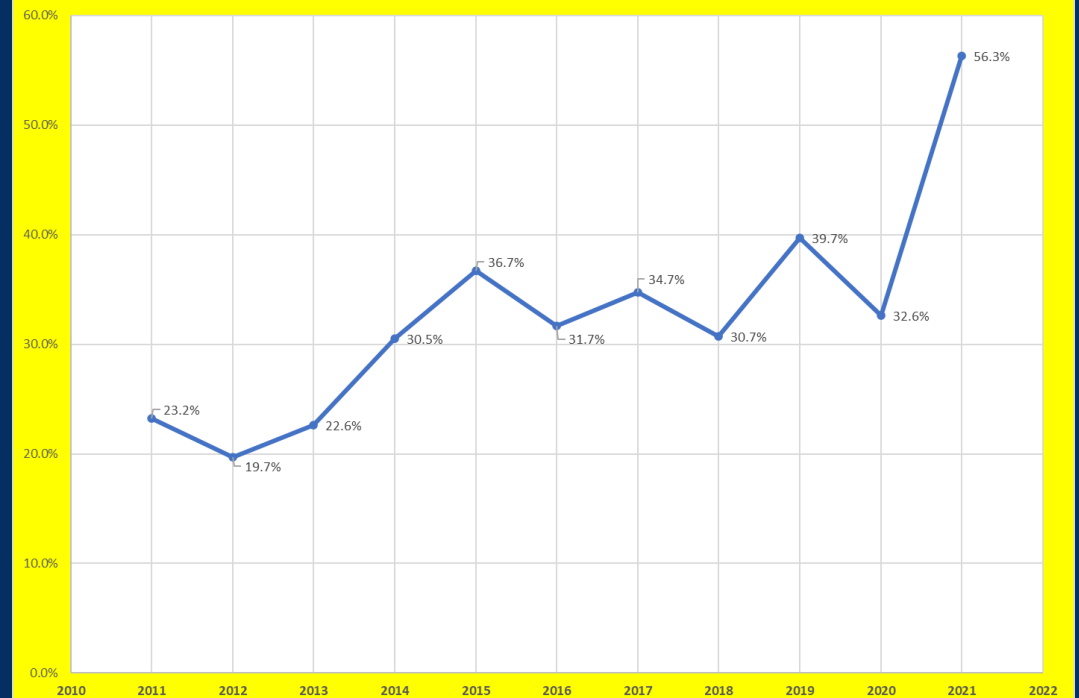


# The Courts have been experiencing increasing annual turnover.

CCP 10 YEAR ANNUAL TURNOVER TREND



JUSTICE OF THE PEACE ANNUAL TURNOVER TREND



## The Courts have been experiencing increasing annual turnover.

- The Courts appreciate efforts to boost state employee salaries.
- Between FY 2011 and today, the salary of a typical Pay Grade 10 at 85% of midpoint, according to the pay grade tables, went from \$32,426 to \$34,671, a 6.9% increase. The cumulative rate of inflation for the same time period was 20.5%\*; the value of \$32,426 in 2011 was \$39,062 in 2021 dollars.
- State employee workload and responsibilities has increased.
- The number of Generally Funded employees statewide (excluding education) in the same time period has grown by only 1.5% --- or by 1.7% if you account for all funding types.

\* [www.usinflationcalculator.com](http://www.usinflationcalculator.com)

Thank you.



**Delaware**  
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